Google Inc. et al v. Egger et al Doc. 536

Exhibit A—State Disclosure Orders

Tab 1—New Jersey Subpoena

Tab 2—Vermont Information Requests & Vermont Order Directing Responses Thereto

Tab 3—Missouri Subpoenas

Tab 4—Connecticut Interrogatories & Connecticut Order Directing Responses Thereto

Tab 5—Maine Order

Dockets.Justia.com

Tab 1—New Jersey Subpoena

JON S. CORZINE
Governor

State of New Jersey
OFFICE OF THE ATTORNEY GENERAL
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF LAW
PO Box 45029
NEWARK, NJ 07101

ZULIMA V. FARBER
Attorney General

May 17, 2006

Via Hand Delivery

Verizon Communications, Inc.
c/o The Corporation Trust Company
820 Bear Tavern Road
West Trenton, New Jersey 08628

Re: Subpoena Duces Tecum: Provision of Telephone Call History Data to the National Security Agency

Dear Sir or Madam:

This office represents Zulima V. Farber, Attorney General of the State of New Jersey and Kimberly S. Ricketts, Director of the New Jersey Division of Consumer Affairs (the "State") in the above-referenced matter. Enclosed please find a Subpoena Duces Tecum issued by the State which requires your production of documents on or before May 30, 2006.

In the event that you have any questions, please contact me at the number listed below..

Very truly yours,

ZULIMA V. FARBER
ATTORNEY GENERAL OF NEW JERSEY

By: Cathleen O'Donnell
Cathleen O'Donnell
Deputy Attorney General

Enclosures

124 HALSEY STREET • TELEPHONE: (973) 648-4584 • FAX: (973) 648-4887
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CT CORPORATION
A WoltersKluwer Company

Service of Process Transmittal
05/17/2006
Log Number 511166629

TO:	Subpoena Processing Verizon Corporate Security Custodian of Record, 140 West Street 21st Floor New York, NY, 10007
RE:	**Process Served in New Jersey**
FOR:	Verizon Communications Inc. (Domestic State: DE)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION:	To: Verizon Communications, Inc. *Name discrepancy noted.*
DOCUMENT(S) SERVED:	Letter, Subpoena Duces Tecum, Proof of Service, Certification of True Copy, and Schedule
COURT/AGENCY:	None Specified Case # None Specified
NATURE OF ACTION:	Subpoenas - Phone records - Subpoena to produce phone information as listed on Schedule-Provision of Telephone Call History Data to National Security Agency
ON WHOM PROCESS WAS SERVED:	The Corporation Trust Company, West Trenton, NJ
DATE AND HOUR OF SERVICE:	By Process Server on 05/17/2006 at 14:00
APPEARANCE OR ANSWER DUE:	5/30/06
ATTORNEY(S) / SENDER(S):	Cathleen O'Donnell Zulima Farber/ Attorney General of New Jersey Division of Law 124 Halsey Street-5th Floor P.O. Box 45029 Newark, NJ, 07101 973-648-4584
ACTION ITEMS:	SOP Papers with Transmittal, via Fed Ex 2 Day, 790433750953 SOP Papers with Transmittal, via Fax, Subpoena Processing 212-302-7857
SIGNED: **PER:** **ADDRESS:**	The Corporation Trust Company Tyeasha Weaver 820 Bear Tavern Road 3rd Floor West Trenton, NJ, 08628
TELEPHONE:	609-538-1818

Information displayed on this transmittal is for CT Corporation's record keeping purposes only and is provided to the recipient for quick reference. This information does not constitute a legal opinion as to the nature of action, the amount of damages, the answer date, or any information contained in the documents themselves. Recipient is responsible for interpreting said documents and for taking appropriate action. Signatures on certified mail receipts confirm receipt of the package only, not of its contents.

ZULIMA V. FARBER
ATTORNEY GENERAL OF NEW JERSEY
Division of Law
124 Halsey Street - 5th Floor
P.O. Box 45029
Newark, New Jersey 07101
Attorney for New Jersey Division of Consumer Affairs

By: **Cathleen O'Donnell**
Deputy Attorney General
(973) 648-4584

THE GREAT SEAL OF THE STATE OF NEW JERSEY

ADMINISTRATIVE ACTION

SUBPOENA DUCES TECUM

THE STATE OF NEW JERSEY to:

Verizon Communications, Inc.
c/o The Corporation Trust Company
820 Bear Tavern Road
West Trenton, New Jersey 08628

You are hereby commanded to produce to the New Jersey Division of Consumer Affairs, Office of Consumer Protection ("Division") through Cathleen O'Donnell, Deputy Attorney General, at 124 Halsey Street, 5th Floor, Newark, New Jersey 07101, on or before May 30, 2006, at 10:00 A.M., the following:

See Attached Schedule

In lieu of your appearance, you may provide the documents and information identified in the attached Schedule on or before the return date at the address listed above by Certified Mail, Return Receipt Requested, addressed to the attention of Cathleen O'Donnell, Deputy Attorney General. You may, at your option and expense, provide certified, true copies in lieu of the original documents identified in the attached Schedule by completing and returning the Certification attached hereto.

Failure to comply with this Subpoena may render you liable for contempt of court and such other penalties as are provided by law. This Subpoena is issued pursuant to the authority of N.J.S.A. 56:8-1 et seq., specifically N.J.S.A. 56:8-3 and 56:8-4.

Dated: May 17, 2006

Cathleen O'Donnell

Deputy Attorney General

PROOF OF SERVICE

I, ______________________, being of full age, certify that on ______________, at approximately, ______________, I served the within Subpoena on ______________ at ______________, by exhibiting the original Subpoena to and leaving a true copy thereof with said individual.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated:______________ ______________________

CERTIFICATION OF TRUE COPY

I certify that the copies of all documents produced in compliance with this Subpoena served upon ______________________ with the return date of May 30, 2006 are true copies of the original documents requested in the Schedule attached to the Subpoena.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: ______________

____
Name (signature)

____
Name (print)

____
Title or Position

SCHEDULE

INSTRUCTIONS AND DEFINITIONS

A. INSTRUCTIONS.

1. This Request is directed to Verizon Communications, Inc., as well as its officers, directors, shareholders, owners, agents, servants, employees, sales representatives, attorneys, corporations, subsidiaries, affiliates, successors, assigns or any other individual or entity acting or purporting to act on its behalf.

2. Unless otherwise specifically indicated, the period of time encompassed by this request shall be from September 11, 2001 to the date of your response to this Subpoena.

3. Unless otherwise specifically indicated, each and every document produced shall be Bates-labeled.

4. If one or more documents or any portions thereof requested herein are withheld under a claim of privilege or otherwise, identify each document or portion thereof as to which the objection is made, together with the following information:

a. Each author or maker of the document;

b. Each addressee or recipient of the document or person to whom its contents were disclosed or explained;

c. The date thereof;

d. The title or description of the general nature of the subject matter of the document and the number of pages;

e. The present location of the document;

f. Each person who has possession, custody or control of the document; and

g. The basis on which the objection is made.

5. In the event that any document which would have been responsive to this Request has been destroyed or discarded, identify that document and also include:

a. The date of the document's destruction or discard;

b. The reason for the destruction or discard; and

c. The persons authorizing and/or carrying out such destruction or discard.

B. DEFINITIONS.

1. "Verizon" means Verizon Communication, Inc., as well as its officers, directors, shareholders, owners, agents, servants, employees, sales representatives, attorneys, corporations, subsidiaries, affiliates, successors, assigns or any Person acting or purporting to act on its behalf.

2. "You" and "your" means Verizon.

3. "Compensation" means the transfer of anything of value including, but not limited to, payment of funds, a promise of future payments, relief from debt, as well as a promise to do so.

4. "Consumer[s]" means any person, natural person, individual, any business entity (whether partnership, corporation, limited liability company or corporation, trust, estate, incorporated or unincorporated association or cooperation), any governmental agency or entity and any other legal or commercial entity however organized.

5. "Correspondence" means any Document intended to transmit information, including, but not limited to, letters, memoranda, electronic mail, faxes, "instant messages," "text messages," voice mail messages and notes.

6. "Document" means writings, recordings, drawings, graphs, photographs, phone records, electronic mail and any other data compilations from which information can be obtained and translated, if necessary, by use of detection devices into reasonably usable form.

7. "NSA" means the National Security Agency, an agency of the United States Government as well as its officers, employees, attorneys, agents and any other Person acting or purporting to act on its behalf.

8. "Telephone Call History Data" means any data Verizon provided to the NSA including, but not limited to, records of landline and cellular telephone calls placed and/or received by a Verizon subscriber with a New Jersey billing address or New Jersey telephone number.

9. "Any" includes "all" and vice versa.

10. "Person[s]" means any natural person, individual, any business entity (whether partnership, corporation, limited liability company or corporation, trust, estate, incorporated or unincorporated association or cooperation), any governmental agency or entity and any other legal or commercial entity however organized.

11. As used herein, the conjunctions "and" and "or" shall be interpreted conjunctively and shall not be interpreted disjunctively to exclude any information otherwise within the scope of this Request. References to the singular include the plural and references to the plural include the singular.

12. "Concerning" means relating to, pertaining to, referring to, describing, evidencing or constituting.

DOCUMENT REQUESTS

1. All names and complete addresses of Persons including, but not limited to, all affiliates, subsidiaries and entities, that provided Telephone Call History Data to the NSA. If incorporated, provide a copy of the Certificate of Incorporation amendments and bylaws thereto, and the Certificate of any and all fictitious names. If a partnership, provide a copy of the partnership agreement documents.

2. All Executive Orders issued by the President of the United States and provided to Verizon Concerning any demand or request to provide Telephone Call History Data to the NSA.

3. All orders, subpoenas and warrants issued by or on behalf of any unit or officer of the Executive Branch of the Federal Government and provided to Verizon Concerning any demand or request to provide Telephone Call History Data to the NSA.

4. All orders, subpoenas and warrants issued by or on behalf of any Federal or State judicial authority and provided to Verizon Concerning any demand or request to provide Telephone Call History Data to the NSA.

5. To the extent not otherwise requested, all Documents Concerning the method by which any demand or request was conveyed to Verizon to provide Telephone Call History Data to the NSA.

6. All Documents Concerning the basis for Verizon's provision of Telephone Call History Data to the NSA including, but not limited to, any legal or contractual authority.

7. All Documents Concerning an identification of Consumers (i.e. name, billing address and telephone number) whose Telephone Call History Data was provided by Verizon to the NSA.

8. All Documents Concerning any Compensation received by or promised to Verizon in connection with the provision of Telephone Call History Data to the NSA.

9. All Documents Concerning any written or oral contracts, memoranda of understanding, memoranda of agreement, other agreements or Correspondence by or on behalf of Verizon and the NSA Concerning the provision of Telephone Call History Data by Verizon to the NSA.

10. All Documents Concerning any communication between Verizon and the NSA or any other unit or officer of the Executive Branch of the Federal Government Concerning the provision of Telephone Call History Data to the NSA.

11. To the extent not otherwise requested, all Documents Concerning any demand or request that Verizon provide Telephone Call History Data to the NSA.

12. A sample of all Documents including, but not limited to, all forms of contract and/or agreement with subscribers that include any provisions Concerning Verizon's authority to disclose Consumer information to third parties and its obligations before said information may be released.

13. All Documents Concerning Verizon's communication with Consumers having a New Jersey billing address and/or telephone number Concerning any request or demand that Telephone Call History Data be provided to the NSA.

Tab 2—Vermont Information Requests &
Vermont Order Directing Responses Thereto

112 STATE STREET
DRAWER 20
MONTPELIER VT 05620-2601
TEL: (802) 828-2811

FAX: (802) 828-2342
TTY (VT): 1-800-734-8390
e-mail: vtdps@psd.state.vt.us
Internet: http://www.state.vt.us/psd

STATE OF VERMONT
DEPARTMENT OF PUBLIC SERVICE

May 17, 2006

Jay E. Gruber, Esq.
AT&T Communications of New England, Inc.
99 Bedford Street
Boston, MA 02111

Re: Information request pursuant to 30 V.S.A. § 206

Dear Mr. Gruber:

Pursuant to its statutory authority under 30 V.S.A. § 206, the Vermont Department of Public Service submits the following information requests to AT&T[1] and requests that the responses thereto be delivered to the Department's offices in Montpelier, Vermont, no later than the close of business on May 25, 2006.

1. Has AT&T disclosed or delivered to the National Security Agency ("NSA") the phone call records of any AT&T customers in Vermont at any time since January 1, 2001? If any such disclosures occurred prior to the date specified, please provide the date on which the disclosures commenced.

2. If the answer to the preceding question is yes, please identify the categories of information AT&T provided to the NSA, including the called and calling parties' numbers; date of call; time of call; length of call; name of called and calling parties; and the called and calling parties' addresses.

3. Has AT&T disclosed or delivered to any other state or federal agency the phone call records of any AT&T customer in Vermont since January 1, 2001? If any such disclosures occurred prior to the date specified, please provide the date on which the disclosures commenced.

4. If the answer to the preceding question is yes, please identify the state and/or federal agency or agencies to which the information was provided or delivered, as well as the

---

[1] As used herein, the term "AT&T" means AT&T, Inc. and any and all affiliates, subsidiaries, operating companies or similar entities.

categories of information AT&T provided, including the called and calling parties' numbers; date of call; time of call; length of call; name of called and calling parties; and the called and calling parties' addresses.

5. Please describe the format in which the information was provided (e.g. database with information on a call-by-call basis).

6. Please describe the reporting interval for the provision of such information (e.g. monthly, annually etc.).

7. Please state how many AT&T Vermont customers have had their calling records disclosed or turned over to the NSA or any other governmental entity, on an agency-by-agency basis, since the inception of the disclosures? Please separate the total into business and residential customers.

8. State whether the disclosures of AT&T Vermont customer call information to the NSA and/or any state or federal agency is ongoing.

9. State the number of occasions that AT&T has made such disclosures.

10. State whether the records that have been and are being disclosed contain:

    a. local calling area records;
    b. intrastate long distance records;
    c. interstate calling records;
    d. international calling records;
    e. calling plan records.

11. Is AT&T disclosing records for any communications services other than telephone calling records (e.g. records for e-mail or internet access)?

12. Please state whether any such disclosures were made by AT&T:

    a. voluntarily upon request of a governmental agency;
    b. in response to an exercise of governmental authority;
    c. If the response is "b" please describe the specific authority relied upon.

13. Does AT&T receive compensation for disclosing customer call information to third parties, including state and federal authorities? If yes, please state

    a. the terms of the compensation;

b. the amount of compensation attributable to the company's Vermont operations;
c. the AT&T entity receiving the compensation?

14. Has AT&T modified any of its equipment or other physical plant in Vermont to permit access to data and other information carried on its network by any agency of the federal government? If the answer is yes, please describe the location, equipment, and details of such modifications, and state the purpose for permitting such access.

15. State AT&T's policy for responding to state law enforcement requests for call records of its Vermont customers.

16. Please provide the information AT&T maintains relative to requests by state and federal law enforcement for call records of AT&T's Vermont customers; identify the location (street address, city, and state) where such records are kept and the name and title of their custodian; and the retention period for such records.

Your prompt and complete attention to these requests is appreciated. If you have any questions, please don't hesitate to call.

Sincerely,

David O'Brien,
Commissioner, Vermont Department of Public Service

cc: Honorable James Douglas, Governor
James Volz, Chairman, Vermont Public Service Board
William H. Sorrell, Vermont Attorney General

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7193

Petition of Vermont Department of Public Service for an investigation into alleged unlawful customer records disclosure by AT&T Communications of New England, Inc.	))))

Order entered: 9/21/2006

PROCEDURAL ORDER AND NOTICE OF HEARING

A status conference was held in this docket on September 20, 2006. Based upon the parties' discussion, the following schedule is established.

Within seven days of the date of this Order, AT&T Communications of New England, Inc. shall provide an additional response to the information requests from the Vermont Department of Public Service issued on May 17, 2006, under authority of 30 V.S.A. § 206. The responses shall separately address each question and shall separately assert any applicable objections or defenses.

Rolling discovery shall commence immediately, with responses due in three weeks. Any discovery disputes will be assigned to a Hearing Officer appointed by the Board.

A status conference will be held in this matter, pursuant to 30 V.S.A. Sections 10, 203, 209 and 218(a), on Wednesday, March 28, 2007, commencing at 11:00 A.M., at the Public Service Board Hearing Room, Third Floor, Chittenden Bank Building, 112 State Street, Montpelier, Vermont, to schedule subsequent events.

SO ORDERED.

Dated at Montpelier, Vermont, this 21st day of September, 2006.

s/James Volz	)	
	)	PUBLIC SERVICE
	)	
s/David C. Coen	)	BOARD
	)	
	)	OF VERMONT
s/John D. Burke	)	

A true copy:
OFFICE OF THE CLERK

FILED: September 21, 2006

ATTEST: Susan M Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject t revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)

Tab 3—Missouri Subpoenas

SUBPOENA AD TESTIFICANDUM

THE STATE OF MISSOURI TO AT&T Communications of the Southwest, Inc., a Delaware Corporation, duly registered and authorized to conduct business in Missouri, GREETINGS:

YOU ARE HEREBY COMMANDED, pursuant to Sections 386.320, 386.410, 386.420, 386.440, 386.460, and 386.480, RSMo, setting aside all manner of excuse and delay, to be and appear personally before the undersigned Commissioners of the Public Service Commission of the State of Missouri on the 12th day of July, 2006, at 10:00 A.M. o'clock of that day, at 200 Madison Street, Room 310, Jefferson City, Missouri, there to be examined under oath concerning the matters specified on Attachment A, and hereof fail not at your peril. Pursuant to Rule 57.03(b)(4), you are required to designate and produce one or more officers, directors, managing agents, or other persons who shall testify on behalf of the above-named deponent with respect to matters known or reasonably available to the organization. The person or officer serving this writ is commanded to have the same at the time and place aforesaid, certifying thereon its return.

GIVEN UNDER MY HAND this 16th day of June, 2006.

MISSOURI PUBLIC SERVICE COMMISSIONER

MISSOURI PUBLIC SERVICE COMMISSIONER

Exhibit A

ATTACHMENT A

1. The number of Missouri customers, if any, whose calling records have been delivered or otherwise disclosed to the National Security Agency ("NSA") and whether or not any of those customers were notified that their records would be or had been so disclosed and whether or not any of those customers consented to the disclosure.

2. The legal authority, if any, under which the disclosures referred to in Paragraph 1, above, were made.

3. The nature or type of information disclosed to the NSA, including telephone number, subscriber name and address, social security numbers, calling patterns, calling history, billing information, credit card information, internet data, and the like.

4. The date or dates on which the disclosures referred to in Paragraph 1, above, were made.

5. The particular exchanges for which any number was disclosed to the NSA.

RETURN

I HEREBY CERTIFY that I have served the within writ by reading the same in the presence and hearing of the Registered Agent of the within named entity on the 19th day of June, 2006, in St. Louis County in the State of Missouri.

Stephen Rackers
[NAME]

Auditor V
[TITLE]

Subscribed and sworn to before me this 11th day of July 2006.

Carla K. Schnieders
Notary Public

My commission expires June 7, 2008.

CARLA K. SCHNIEDERS
Notary Public - Notary Seal
State of Missouri
County of Cole
My Commission Exp. 06/07/2008

SUBPOENA DUCES TECUM

THE STATE OF MISSOURI TO the Custodian of Records of AT&T Communications of the Southwest, Inc., a Delaware Corporation, duly registered and authorized to conduct business in Missouri, GREETINGS:

YOU ARE HEREBY COMMANDED, pursuant to Sections 386.130, 386.320, 386.410, 386.420, 386.440, 386.460, and 386.480, RSMo, setting aside all manner of excuse and delay, to be and appear personally before the undersigned Commissioner of the Public Service Commission of the State of Missouri on the 12th day of July, 2006, at 10:00 A.M. o'clock of that day, at 200 Madison Street, Room 310, Jefferson City, Missouri, there to be examined under oath concerning the matters specified below, and to bring with you and produce at the said time and place, pursuant to Section 386.450, RSMo, the items described on Attachment A, and hereof fail not at your peril. The person or officer serving this writ is commanded to have the same at the time and place aforesaid, certifying thereon its return.

GIVEN UNDER MY HAND this 16th day of June, 2006.

MISSOURI PUBLIC SERVICE COMMISSIONER

MISSOURI PUBLIC SERVICE COMMISSIONER

Exhibit B

ATTACHMENT A

1. Any order, subpoena or directive of any court, tribunal or administrative agency or officer whatsoever, directing or demanding the release of customer proprietary information relating to Missouri customers of SBC Long Distance, L.L.C., doing business as AT&T Long Distance.

2. A copy of any confidentiality agreement or agreements related to the release of customer proprietary information relating to Missouri customers of SBC Long Distance, L.L.C., doing business as AT&T Long Distance.

3. Any other documents, materials or information pertinent to items 1 or 2, above.

4. Copies of all records maintained pursuant to PSC Rule 4 CSR 240-33.160(6) involving the disclosure of CPNI to a third party.

RETURN

I HEREBY CERTIFY that I have served the within Subpoena Duces Tecum by reading the same in the presence and hearing of the Registered Agent of AT&T Communications of the Southwest, Inc., a Delaware Corporation, duly registered and authorized to conduct business in Missouri, on the 22nd day of June, 2006, in St. Louis County in the State of Missouri.

Stephen M. Rackers
[NAME]

Regulatory Auditor V
[TITLE]

Subscribed and sworn to before me this 11th day of July 2006.

Carla K. Schnieders
Notary Public

My commission expires June 7, 2008.

CARLA K. SCHNIEDERS
Notary Public - Notary Seal
State of Missouri
County of Cole
My Commission Exp. 06/07/2008

Tab 4—Connecticut Interrogatories &
Connecticut Order Directing Responses Thereto

STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC UTILITY CONTROL

APPLICATION OF AMERICAN CIVIL	:	
LIBERTIES UNION OF CT (ACLU-CT)	:	DOCKET NO. 06-05-13
FOR INVESTIGATION OF AT&T	:	
AND VERIZON REGARDING	:	
DISCLOSURE OF CT CUSTOMER	:	AUGUST 10, 2006
INFORMATION AND REQUEST	:	
FOR RULE MAKING	:	

ACLU-CT'S FIRST SET OF INTERROGATORIES TO AT&T

The American Civil Liberties Union of Connecticut ("ACLU-CT"), hereby requests that AT&T ("AT&T" or the "Company") answer the following interrogatories in the above-captioned proceeding. The ACLU-CT requests that the Company provide responses to the interrogatories as soon as possible but in no event later than August 24, 2006.

I. DEFINITIONS

A. As used in these interrogatories, "any" shall include "all" and "all" shall include "any" as needed to make the request inclusive and not exclusive.

B. As used in these interrogatories, "and" shall include "or" and "or" shall include "and" as needed to make the request inclusive and not exclusive. For example, both "and" and "or" mean and/or.

C. As used in these interrogatories, "concern" or "concerning" means relate, relating, refer, referring, reflect, reflecting, about, constitute and constituting.

D. As used in these interrogatories, “AT&T” means AT&T Inc., AT&T Corp., SBC Communications Inc., Southern New England Telecommunications Corporation, the Woodbury Telephone Company and their present or former subsidiaries, affiliates, branches, divisions, principals, associated persons, control persons, directors, officers, employees, agents, trustees and beneficiaries to the extent that such entities have operated in the State of Connecticut. Each reference to AT&T shall be interpreted to include any, all, or any grouping or subgrouping of persons or entities named in the foregoing enumeration as needed to make the reference inclusive and not exclusive.

E. As used in these interrogatories, “government entity” includes any entity or person operating as part of the collective government of the United States of America, federal as well as state, including but not limited to the Department of Homeland Security, the Department of Emergency Management and Homeland Security, the Federal Bureau of Investigation, the National Security Agency, the Central Intelligence Agency and/or any branch of the United States Armed Forces, their present or former personnel, agents or employees and/or any entity or person working under the direction, influence or control of such persons or entities.

II. INSTRUCTIONS

A. If you are unable to answer or respond fully to any interrogatory request for any reason, including but not limited to any purported claim of state secrets privilege, answer or respond to the extent possible and specify the reasons for your inability to answer or respond in full.

B. If you object to any of the definitions, instructions or requests, including but not limited to any purported claim of state secrets privilege, state your objection(s) in your response and indicate whether you are complying with the direction, instruction or request in spite of your objection. If your objection goes to only part of a direction, instruction or request, answer or respond to that part of the request which does not fall within the scope of your objection.

III. INTERROGATORIES

ACLU-1 Identify all witnesses that AT&T intends to present at the September 6, 2006 DPUC hearing.

ACLU-1a. For each witness identified in response to ACLU-1, identify such witness's expertise and the scope of their responsibilities as to the record evidence they will provide.

ACLU-2 Did AT&T have any published privacy policy or policies concerning customer information and/or records in effect between September 11, 2001 and August 10, 2006 (the "Relevant Period")?

ACLU-2a. If your response to ACLU-2 is yes, provide a copy of each pertinent policy in effect during the Relevant Period and state the effective dates for each policy.

ACLU-2b. To the extent that any published privacy policy referenced in your response to ACLU-2 and 2a changed during the Relevant Period, explain the specific terms that changed, when the change(s) occurred, and the reason for the change(s).

ACLU-3. Other than published privacy policies referenced in your response ACLU-2 through 2b, did AT&T have any other (*i.e.*, unpublished or otherwise not publicly available) policies concerning the privacy of customer information and/or records during the Relevant Period?

ACLU-3a. If your response to ACLU-3 is yes, and to the extent that such policies were reduced to writing, provide a copy of such policies and state the effective dates for each policy. To the extent any such policies were not reduced to writing, provide a detailed description and explanation of each such policy together with their effective dates.

ACLU-3b. To the extent that any privacy policy referenced in your response to ACLU-3 and 3a changed during the Relevant Period, explain the specific terms that changed, when the change occurred, and the reason for the change(s).

ACLU-4. Beyond any information that you have provided in response to ACLU-2 through 3b, detail any changes that AT&T made, or that AT&T presently intends to make, to its privacy policies in response to P.A. 06-98, "An Act

Concerning the Confidentiality of Telephone Records," taking effect on October 1, 2006.

ACLU-5. Has AT&T at any time during the Relevant Period disclosed customer information and/or records to private parties, government entities and/or law enforcement personnel when not compelled to do so by subpoena, warrant, court order or a request under 18 U.S.C. § 2709 ("National Security Letter" or "NSL")?

ACLU-5a. If your response to ACLU-5 is yes, how many times has AT&T disclosed such material?

ACLU-5b. If your response to ACLU-5 is yes, provide full details of each occasion on which AT&T disclosed customer information and/or records to private parties, government entities and/or law enforcement personnel when not compelled to do so by subpoena, warrant, court order or NSL, including the date of each request, the information sought, the information provided, and the date on which the information was provided.

ACLU-5c. If your response to ACLU-5 is yes, has AT&T ever received any consideration whatsoever for disclosing customer information and/or records to private parties, government entities and/or law enforcement personnel when not compelled to do so by subpoena, warrant or NSL?

ACLU-5d. If your response to ACLU-5c is yes, detail any and all consideration received by AT&T.

ACLU-6. Has AT&T had any policy or policies during the Relevant Period, whether written or unwritten, concerning the disclosure of customer information and/or records to private parties, government entities and/or law enforcement personnel when not compelled to do so by subpoena, warrant, court order or NSL?

ACLU-6a. If your response to ACLU-6 is yes, provide a copy, where reduced to writing, or detail any such policy or policies.

ACLU-6b. To the extent that any policy referenced in your response to ACLU-6 and 6a changed during the Relevant Period, explain the specific terms that changed, when the change occurred, and the reason for the change.

ACLU-7. Provide the names and positions of persons at AT&T who have the authority to authorize disclosure of customer information and/or records to private parties, government entities and/or law enforcement personnel when AT&T is not compelled to do so by subpoena, warrant, court order or NSL.

ACLU-8 Without providing any details about the purpose(s) or target(s) of any investigation(s) or operations(s), at any time during the Relevant Period has AT&T ever received an NSL seeking disclosure of customer information and/or records?

ACLU-8a. If the answer to ACLU-8 is yes, how many NSLs has AT&T received?

ACLU-9 Has AT&T at any time during the Relevant Period disclosed customer information and/or records to law enforcement or government personnel in response to an NSL?

ACLU-9a. If your response to ACLU-9 is yes, under what circumstances has AT&T disclosed customer information and/or records to law enforcement or government personnel pursuant to an NSL?

ACLU-9b. If your response to ACLU-9 is yes, has AT&T received any consideration whatsoever for disclosing customer information and/or records to law enforcement or government personnel pursuant to an NSL?

ACLU-9c. If your response to ACLU-9b is yes, detail any and all consideration received by AT&T.

ACLU-10 Has AT&T had any policy or policies during the Relevant Period, whether written or unwritten, concerning the disclosure of customer information and/or records to law enforcement or government personnel pursuant to an NSL?

ACLU-10a. If your response to ACLU-10 is yes, provide a copy, where reduced to writing, or detail any such policy or policies.

ACLU-10b. To the extent that any policy referenced in your response to ACLU-10 and 10a changed during the Relevant Period, explain the specific terms that changed, when the change(s) occurred, and the reason for the change(s).

ACLU-11 Provide the names and positions of persons at AT&T who have the authority to authorize disclosure of customer information and/or records to law enforcement personnel or government entities pursuant to an NSL.

ACLU-12 Other than allegations contained in the ACLU-CT's May 24, 2006, petition, has AT&T received any complaints, whether from individual consumers or any other source, and whether formal or informal, alleging that AT&T disclosed Connecticut customer information and/or records to private parties, government entities and/or law enforcement personnel?

ACLU-11a. If your response to ACLU-11 is yes, provide a copy of each such complaint.

August 23 2006
In reply, please refer to:
Docket No. 06-05-13 ADJ:acr
Motion Nos. 4 & 5

Mary Jane Lee, Esq.
Verizon New York, Inc.
140 West Street, 27th Floor
New York, NY 10007-2109

Merrie Cavanaugh, Esq.
AT&T Services Inc
310 Orange Street, 8th Floor
New Haven, CT 06510

Re: Docket No. 06-05-13 – Application of the American Civil Liberties Union of CT for Investigation of AT&T and Verizon Regarding Disclosure of CT Customer Information and Request for Rulemaking

Dear Ms. Lee and Cavanaugh:

Verizon New York Inc. (Verizon) filed with Department of Public Utility Control (Department) a Motion to Strike dated August 11, 2006 (Motion) in which Verizon petitions the Department to strike the first set of interrogatories filed by the American Civil Liberties Union of Connecticut (ACLU-CT) in the above cited docket. [1] Specifically, Verizon alleges that ACLU-CT has failed to comport with the procedural time schedule established by the Department. Since the interrogatories are extensive Verizon further claims that it would be prejudicial to require Verizon to respond to the “voluminous” interrogatories in time for the September 6, 2006 hearing date.

The Southern New England Telephone Company d/b/a AT&T Connecticut (Telco) filed a Letter Objection, dated August 14, 2006, (Objection) to the ACLU-CT interrogatories. The Telco argues that the ACLU-CT interrogatory requests do not adhere to the current procedural schedule and are premature since the Department has not ruled on whether it has the jurisdictional authority to adjudicate the matter.

The Office of Consumer Counsel (OCC) filed letters dated August 11, 2006 August 16, 2006 and August 17, 2006,[2] objecting to the Motion and Objection and in support of ACLU-CT’s interrogatories. In addition, the ACLU-CT filed letters dated August 11, 2006 and August 16, 2006, in opposition to the Motion and Objection and in support of its interrogatories.

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[1] The ACLU-CT filed its first set of interrogatories to Verizon and the Telco on August 10, 2006.

[2] The August 17, 2006 letter was written with the concurrence of ACLU-CT and the Office of the Attorney General.

The Department has determined that the ACLU-CT should be allowed the opportunity to conduct discovery in support of its claims. Accordingly, the Department hereby denies the Motion to Strike. However, since the interrogatories in question are extensive the Department hereby cancels the hearing scheduled for September 6, 2006, and will reschedule the hearing for September 21, 2006. Interrogatory responses should be filed no later than September 7, 2006.

Sincerely
DEPARTMENT OF PUBLIC UTILITY CONTROL

Louise E. Rickard
Acting Executive Secretary

cc: Service List

Tab 5—Maine Order

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2006-274

August 9, 2006

MAINE PUBLIC UTILITIES COMMISSION
Request for Commission Investigation into
Whether Verizon is Cooperating in Maine
With the National Security Agency's
Warrantless Domestic Wiretapping Program

ORDER

ADAMS, Chairman; REISHUS, Commissioner

I. SUMMARY

In this order we require that Verizon provide sworn affirmations of representations it made in its filed response to the complaint in this matter.

II. BACKGROUND

James D. Cowie, on behalf of himself and 21 other persons, has filed a complaint, pursuant to 35-A M.R.S.A. § 1302(1), requesting that the Commission investigate whether and to what extent Verizon has cooperated with the National Security Agency (NSA) in connection with two alleged intelligence gathering programs. Specifically, the petitioners ask the Commission to determine "whether Verizon has provided the NSA, or any other government agency, unwarranted access to any Verizon or MCI facilities in Maine, or to records of domestic or international calls or e-mails made or received by their customers in Maine." In the event that we find that Verizon has so cooperated, petitioners also seek an order enjoining further cooperation.

For its factual basis, the complaint cites a series of reports published late last year by the New York Times and the Los Angeles Times asserting that another telecommunications company, AT&T, had installed in its switching machines a circuit designed by the NSA to provide access to phone calls and/or records of phone calls. These articles report, further, that AT&T maintains a database which keeps track of phone numbers on both ends of calls and that the NSA was able to interface directly with the database. The implication, drawn by the articles, is that with the cooperation of telecommunications firms the NSA is conducting a call data program ("data mining program") in which it uses statistical methods to analyze patterns in the calling activity of vast numbers of users. Relying on these articles, the complainants ask us to determine not only whether Verizon provided to the federal government records of customer telephone calls or e-mail communications, but also whether it granted access to the telecommunications facilities and infrastructure of Verizon or MCI, located in Maine, such that the NSA (or any other federal agency) could, thereafter, obtain call records and e-mail records directly, and on its own initiative.

The articles upon which the complainants rely also report that the NSA has been eavesdropping on Americans and others inside the United States in order to search for evidence of terrorist activity, and that it is doing so with authorization from the President but without first obtaining warrants that are typically required for domestic spying. The complainants therefore also seek an investigation into the extent of Verizon's cooperation, in Maine, with this eavesdropping program.

Verizon, in its response to the complaint, contends that it can neither admit nor deny involvement in national security matters and that an investigation into this matter would be fruitless because we will be unable to ascertain facts germane to the central allegations of the complaint. The United States Department of Justice (DOJ), which filed comments at our request, supports Verizon's contention.

Notwithstanding its claimed inability to discuss its relationship to any classified NSA programs, Verizon's written response to the complaint, filed on May 19, 2006, includes several affirmative assertions of fact in support of its argument that we should decline to open an investigation. Specifically, Verizon's filed response refers to two press releases, issued on May 12, 2006 and May 16, 2006, copies of which are appended as exhibits to the filing. These press releases make the following representations:

1. Verizon was not asked by NSA to provide, nor did Verizon provide, customer phone records from any of its businesses, or any call data from those records.

2. None of these companies – wireless or wireline – provided customer records or call data.

3. Verizon's wireless and wireline companies did not provide to NSA customer records or call data, local or otherwise.

4. Verizon will provide customer information to a government agency only where authorized by law for appropriately-defined and focused purposes.

5. When information is provided, Verizon seeks to ensure it is properly used for that purpose and is subject to appropriate safeguards against improper use.

6. Verizon does not, and will not, provide any government agency unfettered access to its customer records or provide information to the government under circumstances that would allow a fishing expedition.

7. Verizon acquired MCI, and Verizon is ensuring that Verizon's policies are implemented at that entity and that all its activities fully comply with law.

These seven representations were made to the Commission for the purpose of influencing the Commission's decision as to whether or not to open an investigation. Maine law provides that statements made in any document filed with the Commission must be truthful. Specifically, 35-A M.R.S.A. § 1507-A makes it a crime for "any person to make or cause to be made, in any document filed with the commission or in any proceeding under this Title, any statement that, at the time and in light of the circumstances under which it is made, is false in any material respect and that the person knows is false in any material respect."

III. DISCUSSION AND DECISION

The Maine Public Utilities Commission serves the people of Maine, and has an important role in providing a forum for grievances by citizens of this state against utilities that serve them. Moreover, Maine telecommunications subscribers have a right to the privacy of their communications over our telephone system, as well as over the dissemination of their telephone records, including their telephone numbers. We must open an investigation into the allegations that Verizon's activities violate its customers' privacy rights unless we find that Verizon has taken adequate steps to remove the cause of the complaint or that the complaint is without merit. 35-A M.R.S.A. § 1302(2).

If the seven representations identified above are in fact true, such statements could satisfy the concerns raised in the complaint. To be plain, we read Verizon's representations as denying that it provided customer records or call data associated with its customers in Maine to agencies of the federal government, and that it did not provide such agencies with access to its facilities or infrastructure in Maine such that those agencies would have direct, unfettered access to Verizon's network or the data it carries.

However, we are unwilling to rely on these representations to dismiss the complaint because they do not bear sufficient indicia of truth as they are not attributed to an individual within Verizon who has decision-making authority and knowledge of the matters asserted. As noted above, we may only dismiss the complaint if we find that Verizon has taken adequate steps to remove the cause of the complaint or if the complaint lacks merit. 35-A M.R.S.A. § 1302(2).

In order to fulfill our duty to consider whether to open an investigation as set forth in 35-A M.R.S.A. § 1302, we find that we require as to each of the seven representations set forth above a sworn affirmation that such representation is true and not misleading in light of the circumstances in which it is made. Pursuant to our authority set forth in 35-A M.R.S.A. § 112(2), we therefore order that Verizon obtain such affirmations made under oath by an officer of Verizon with decision-making authority and knowledge covering the subject matters asserted therein. Verizon shall file these affirmations on or before August 21, 2006.

Pending our receipt of the affirmations from Verizon, we neither open an investigation nor dismiss the complaint. To the parties, and to the Office of the Public Advocate, the Maine Civil Liberties Union, Christopher Branson, Esq., and the Department of Justice, we note our appreciation of the well reasoned and articulate comments that have been filed in this matter.

IV. CONCLUSION

For the foregoing reasons, we order that Verizon file, on or before August 21, 2006, an affirmation that each of the seven (7) enumerated representations identified in Section II is both true and not misleading in light of the circumstances in which such affirmation is provided, and that such affirmation be made under oath by an officer of Verizon with decision-making authority and knowledge covering the subject matters asserted therein.

Dated at Augusta, Maine, this 9th day of August, 2006.

BY ORDER OF THE COMMISSION

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Dennis L. Keschl
Acting Administrative Director

COMMISSIONERS VOTING FOR: Adams
Reishus